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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,065	06/28/2001	David Michael Koelle	AUS920010293US1	5452
7590	12/05/2005		EXAMINER	
Duke W. Yee, Carstens, Yee & Cahoon, LLP P.O. Box 802334 Dallas, TX 75380			CHEN, ALAN S	
			ART UNIT	PAPER NUMBER
			2182	

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/894,065	KOELLE ET AL.	
	Examiner	Art Unit	
	Alan S. Chen	2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 September 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3-10, 12-14, 16-21 and 23-31 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3-10, 12-14, 16-21 and 23-31 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 September 2005 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED FINAL ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.
2. The drawings were received on 09/26/2005. These drawings are acceptable.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 28-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claims 28-30 recites the limitation "the assembling step" or "the assembling means" in the second and third line of each claim. There is insufficient antecedent basis for this limitation in the claim. Examiner will assume the applicant means gathering the devices that match the user/software specified criteria.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1,3-10,12-14,16-21 and 23-31 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat. No. 6,295,527 to McCormack et al. (McCormack).

8. Per claims 1, 9, 14 and 21, McCormack discloses a method (Fig. 4-5), data processing system (Fig. 6) and computer program product (Fig. 1-6), these statutory categories being embodied here under the data processing system, comprising: a bus system (Fig. 6, shows inter/intrasytem bus schemes); a communication unit connected to the bus system (Fig. 6, element 618, the communication interface allows system, element 600, to collect information about other devices on the network; Column 17, lines 49-56); a storage device connected to the bus system (Fig. 6, elements 606, 608, 610), wherein the storage device includes a set of instructions (Column 17, "...processor 604 executing one or more sequences of one or more instructions contained in main memory 606. Such instructions may be read into main memory 606 from another computer-readable medium, such as storage device 610... "); and a processing unit (Fig. 6, element 604) connected to the bus system, wherein the processing unit executes the set of instructions to maintain a set of attributes relating to elements in a data processing system (Fig. 2, element 330 shows attributes of network devices; Column 7, lines 39-50; Fig. 3, attribute information including the types of device, OS version, etc), wherein a desired combination of attributes (Fig. 4, particularly element 412, McCormack discloses using a filter to filter out a desired group of devices with attributes specified in the filter; Column 15, lines 25-35 disclose user specifying attributes/criteria to query) in the a plurality of possible combination of attributes is used to create respective group of devices containing the respective desired combination of the attributes (Fig. 3 shows an example of the various types of attributes one can select); upon receipt of a notification that a new attribute can be searched, dynamically update the set of

attributes (Column 10, lines 66-Column 11 lines 10 specifically disclose the ability to “dynamically generate data”, e.g., the system, particularly the Network Management Server, to dynamically poll the network for network device attributes); receiving a query from a request, wherein the query includes criteria (Fig. 4A, element 412); identifying a first group of devices, the attributes of which match the criteria (Fig. 4A, element 414); and return the first group to the requester (Fig. 4A, elements 416 and 418).

9. Per claims 3, 16 and 23 McCormack discloses claims 1, 14 and 21, further disclosing the set of attributes including a device/processor type (Fig. 3, element 314).

10. Per claims 4-8, 17-20 and 24-27, McCormack discloses claims 1, 14 and 21 wherein the first group (Fig. 4A, element 412 and Fig. 3) identifies a set of data processing systems (Fig. 1, elements 118 show multiple processing devices), where the filtering is used to update software (Column 1, lines 25-35, indicates the desire of the network administrator to know the devices connected to the network without have to physically walk around to each one of the devices, clearly the administrator updates software/hardware for each of the network devices when necessary); the requestor is indeed a software process, being a software user interface that a user inputs the desired criteria into, then the software user interface retrieves the devices with the inputted criteria (Fig. 4); the first group is generated using “non-preexisting data” is very broadly claimed and McCormack reads upon this simply based on the notion that McCormack dynamically polls for new devices that did not exist before in previous queries (Column 10, lines 66-Column 11 lines 10); McCormack also specifically cites using meta-data to describe attributes within the set of attributes (Abstract, Summary of Invention, and Column 4, lines 60+, use of Metadata table).

11. Per claim 10, 12 and 13, McCormack discloses claim 1, wherein the bus system is a single bus (Fig. 6), whole system has plurality of processors (Fig. 6, element 604 and 624 and other network devices clearly have processors), and the communication unit uses Ethernet (Column 6, lines 25-25).

12. Per claims 28-31, McCormack discloses claim 1, 9, 14 and 21, wherein if the first group has been previous been generated (e.g., a query already executed), the query is pulled from storage (Column 15, lines 25-35, "...the filter values are persistently stored in a database so that they can be later recalled and re-used.") and if the group has not previous been generated, dynamically generating group (clearly if query is new, will filter out current device information and generate group).

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan S. Chen whose telephone number is 571-272-4143. The examiner can normally be reached on M-F 8:30am - 5:30pm.

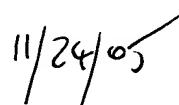
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim N. Huynh can be reached on (571) 272-4147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ASC
11/23/2005



KIM HUYNH
PRIMARY EXAMINER



11/24/05